

高等院校法学专业双语教材

Private International Law

国际私法 (英文版)

霍政欣 著



对外经济贸易大学出版社
University of International Business and Economics Press

高等院校法学专业双语教材

国际私法

Private International Law

霍政欣 著

对外经济贸易大学出版社
中国·北京

图书在版编目 (CIP) 数据

国际私法: 英文 / 霍政欣著. —北京: 对外经济贸易大学出版社, 2017. 6

高等院校法学专业双语教材

ISBN 978-7-5663-1785-8

I. ①国… II. ①霍… III. ①国际私法-双语教学-高等学校-教材-英文 IV. ①D997

中国版本图书馆 CIP 数据核字 (2017) 第 122988 号

© 2017 年 对外经济贸易大学出版社出版发行

版权所有 翻印必究

国际私法 (英文版) Private International Law

霍政欣 著

责任编辑: 王 煜

对外经济贸易大学出版社

北京市朝阳区惠新东街 10 号 邮政编码: 100029

邮购电话: 010-64492338 发行部电话: 010-64492342

网址: <http://www.uibep.com> E-mail: uibep@126.com

北京时代华都印刷有限公司印装 新华书店经销

成品尺寸: 185mm×260mm 25 印张 578 千字

2017 年 6 月北京第 1 版 2017 年 6 月第 1 次印刷

ISBN 978-7-5663-1785-8

印数: 0 001-3 000 册 定价: 59.00 元

作者简介

霍政欣，现为中国政法大学教授、博士生导师、国际法学院副院长、院学术委员会副主任委员；兼任联合国教科文组织观察员、国际比较法学会联席会员、中国文物学会法律专业委员会副会长、国家领土权益与海洋权益协同创新中心研究员等职；入选教育部“新世纪优秀人才支持计划”与中国政法大学首批“优秀中青年教师培养支持计划”；系北京“五四青年奖章”与“宝钢优秀教师奖”获得者。

霍政欣教授毕业于武汉大学法学院，获国际法学博士学位；曾赴奥地利、荷兰、美国、韩国与英国等多国高校讲学与研究，担任华东政法大学、英国阿伯丁大学、韩国首尔大学等国内外多所高校兼职教授；主要研究领域为国际私法、比较法与文化财产法，现已出版中文专著四部、英文专著两部、译著三部、独著教材两部；在《美国比较法学期刊》《国际法与比较法季刊》等国际主流法学刊物上发表英文论文二十余篇；在《法学研究》《法商研究》《法学评论》等国内重要法学刊物上发表中文论文、译文及评论七十余篇；曾获第五届中国高等学校科学研究优秀成果奖三等奖、北京市第十届、第十三届哲学社会科学优秀成果奖二等奖、湖北省第六届哲学社会科学优秀成果奖二等奖、中国国际私法首届优秀学术成果奖一等奖、中国政法大学优秀教师奖、中国政法大学优秀教师特别奖、中国政法大学第三届青年教师优秀科研成果奖一等奖、中国政法大学第四届青年教师教学基本功大赛一等奖等奖项。

ABOUT THE AUTHOR

HUO Zhengxin is currently a Professor of Law and Vice Dean of Faculty of International Law at China University of Political Science and Law (CUPL). He is an observer of the UNESCO, an associate member of International Academy of Comparative Law, and a Deputy Chairman of the Law Committee of China Association of Cultural Objects. Professor HUO is a *New Century Talent* laureate and a *Baosteel Outstanding Teacher* appointed by the Ministry of Education of the PRC, a *May 4th Youth* medalist awarded by Beijing Municipal Government and a *CUPL Outstanding Young Scholar* laureate.

Professor HUO received his PhD. in international law from Wuhan University School of Law, and joined the CUPL faculty after his graduation. He has been a visiting scholar & professor at a number of foreign universities, including University of Vienna (Austria), University of Minnesota (USA), University of Aberdeen (UK) and Seoul National University (South Korea), etc. His scholarship focuses on private international law, comparative law, and cultural property law and he has published extensively in these areas. His recent works in English are published in *American Journal of Comparative Law* (SSCI), *International & Comparative Law Quarterly* (SSCI), *Hong Kong Law Journal* (SSCI), *Journal of East Asia and International Law* (SSCI), *International Journal of Cultural Policy* (SSCI) and other prominent journals. He has also authored four monographs and more than seventy articles & review essays in Chinese. He has won various awards for academic and teaching achievements in China.

2017 年版前言

对于我而言，这个丁酉年的春天异常难熬。变故接踵而至，让我常有喘不过气的感觉。困顿之中，我本无计划在此阶段将这本英文教科书修订再版。但几经努力，我还是按出版社的要求如期交付了书稿。回顾整个过程，以下几个因素促成我决意排除困难，并给我“加持”，从而令我顺利完成修订再版的所有工作。

第一，本书 2015 年修订版付梓不久，《最高人民法院关于适用〈中华人民共和国民事诉讼法〉的解释》（以下简称《民诉法解释》）即予颁布。这部“史上最长的司法解释”对中国国际民事诉讼的诸多领域做出了新的规定，不少条款极具重要性。从这个意义上说，2015 年版颇有“生不逢时”的味道，这让我从其诞生之日起就萌生从速再版的心愿。

第二，本书自 2011 年面世以来，它受到的欢迎程度有些超出我的预料：6 年内再版两次、加印多次，且均告售罄，与有荣焉。所以，当编辑敦促我与其再次加印，不如结合近几年学理、立法与司法实践的发展将之修订再版时，我没有拒绝的理由。

第三，我首本独著的国际私法中文教科书业已杀青，不日将由中国政法大学出版社出版。^①这本中文教科书是我执教十二载、笔喻两载的结晶，也见证了我从青年到中年的蜕变。不惑之际，能同时收获属于自己的中英文两本专业教科书，对于国际法学者而言，幸莫大焉。所以，这几乎成了我攻坚克难、修订本书最直接的动因。

事实上，自本书初版于 2011 年出版以来，一直有读者通过不同渠道询问我是否著有中文教材与之对应，以助其理解，而我则常回复之以“将尽快促成中文教材面世”云云。所以，此次中英文两本国际私法教科书于同年出版，算是了却我的一桩心愿：终于没有枉负这些读者的期待。

既然修订，自然需要对本版的主要变化做出介绍：首先，结合《民诉法解释》、《民法总则》、十八届四中以来的相关司法改革措施对本书做出更新、调整与增补是此次修订的重中之重。这项工作牵涉面甚广，尤其涉及第三编、第四编与第六编的内容。第二，鉴于欧盟国际私法的快速发展与重大影响，本版在第二编第一章专门增加了欧盟国际私法的内容。第三，为使本书覆盖的知识点更加全面，此次修订增加了若干知识点，例如，本版在第五编中增加第五章“强制性规范”，又将第二章“反致”扩写为“反致与附带问题”等。第四，为使论述更加系统与协调，本版删除了原版第八编“中国国际私法立法的最新发展”，将其相关内容并入各编各章中予以阐释。此外，将 2015 年版的笔误和存在争议的一些表述进行修改与更正，亦为一项重要任务。

坦率地说，这段时间，我过得颇为不易，但我骨子里是有韧劲的人：越难，征服心越决然。一个多月以来，我几乎利用了所有能利用的时间、倾注了所有能倾注的精力以完成本书的修订：在往返学校的班车与地铁上，在守护家人的病床边，在妻女熟睡后的

^① 霍政欣著：《国际私法》，中国政法大学出版社 2017 年版。

深夜里……

今天傍晚，在键盘上敲完最后一个字以后，我如释重负地长吁一声。这个春天以来身体的劳顿与内心的挣扎，在这声叹息中似乎找到了停歇的理由。我爬到楼顶，向暮霭飘荡的远方眺望。轻吻春风，沐浴残阳，心静如水。其实，雾霾厚重，什么也看不到。生活的酸甜苦辣，人生的悲欢离合，远在远方之外，但眺望是一种青春的姿态。回顾自己逝去的青春岁月，我的心比以往任何时间都要澄净：我奋斗过，颓废过；流浪过，停泊过；信仰过，失落过；爱过，痛过；写过，译过——如此人生，在我看来，足矣。

霍政欣

于北京海淀

2017年4月3日

Preface to the Revised Edition of 2017

Immediately after the release of the second edition, the “Interpretation of the Supreme People’s Court on the Application of the Civil Procedure Law” (hereinafter referred to as Interpretation on CPL) was put into effect. Effective as of February 4, 2015, the Interpretation on CPL has made substantial changes in almost every aspect of Chinese civil procedure law including the rules governing international civil litigation. Moreover, since the fourth Plenary Session of the 18th CPC Central Committee held in October 2014, judicial reform in China has achieved crucial breakthrough which, inevitably, influences the development of Chinese private international law in many respects. On March 15, 2017, the NPC passed the General Provisions of Civil Law, which is regarded as a milestone in China’s legislation. Needless to say, these changes have significant impact on China’s private international law. Hence, I decide to revise the book though the interval between this edition and its predecessor is relatively short.

In order to reflect the changes in private international law both at home and abroad during the past two years, much of the work has been re-written, expanded or revised. The main changes made by this edition are these:

(1) Chapter One in Part Two on the European Continental history contains a new section on Europeanisation of private international law, as EU private international law has gathered pace following the establishment of Community competence in private international law by the Treaty of Amsterdam. The influence of EU private international law is now considerable and looks likely to increase.

(2) Chapter Two in Part Four on international civil litigation in Chinese People’s Courts and relevant chapters in Parts Three and Six have been revised and expanded to take account of the Interpretation on CPL, the General Provisions of Civil Law and the latest development of China’s judicial reform.

(3) This edition covers more issues for the purpose of making the textbook more systematic and comprehensive, for instance, Part Five contains a new chapter on mandatory rules as the notion of mandatory rules has excited much attention in the private international law academy; in addition, Chapter Two in Part Five has now been expanded to cover both *renvoi* and the incidental question.

(4) Part Eight on the latest development of private international law legislation in China contained in the previous editions has been eliminated in order to systematise and optimise the structure of the book. The content of this part is not simply discarded; instead, most relevant issues have been incorporated into other parts of the book.

(5) Slips of the pen and the arguments that had invited debate have been either corrected or improved.

The edition endeavours to state the law as on March 15, 2017, though it has been possible to include some more recent legislation.

HUO Zhengxin

April 3, 2017

2015 年版前言

本书第一版于 2011 年 8 月面世, 现已售罄, 我遂借再版之际对之进行修订。此次重拾旧作, 令我终于领悟美国国际私法学家艾伦茨威格 (Ehrenzweig) 所言之真谛: 任何书籍, 第一版都不应出版。本次修订, 除修正错误与不当之处以外, 我将主要精力放在内容的更新上。然而, 由于近年来立法与判例变化甚大, 加之学术论著与国际条约也有诸多发展, 这个努力一经开始, 就变成了无休止的苦差事。

以下仅提及几处重要发展: 2012 年 8 月 31 日, 第 11 届全国人大常委会第 28 次会议通过了《关于修改〈中华人民共和国民事诉讼法〉的决定》, 新修订的“民事诉讼法”已于 2013 年 1 月 1 日生效; 2012 年 12 月 10 日, 最高人民法院审判委员会第 1563 次会议通过了《最高人民法院关于适用〈中华人民共和国民事诉讼法〉若干问题的解释(一)》, 该司法解释已自 2013 年 1 月 7 日起施行。此外, 一些外法域的法院改变了判例法, 其中有些判例对中国国际私法的发展起到了直接或间接的影响。尽管这些变化, 其本身尚称不上革命, 但是, 由于覆盖的领域广、数量大, 因此, 这些变化叠加在一起, 对中国国际私法的影响, 绝不容小觑。此次修订本书, 因而以全面体现 3 年来中国国际私法在各领域的变化与发展为原则。

尽管此次修订涉及的编章较多, 但本书的宗旨与第一版保持一致: 帮助学生、实务工作者与学者以英语为媒介, 理解中国国际私法的理论与实践。此外, 本次修订虽对部分编章进行了较大幅度的修正, 甚至完全重写, 但全书的结构安排亦保持稳定。

本书的修订得到了多位师友的帮助, 在此谨表谢意。我尤其要感谢中国政法大学法学实验班的同学们。在使用本书作为教材的几年间, 他们提出了诸多有益的建议与意见。

最后, 我要感谢我的父母与妻子。若无他们的支持、分担与理解, 我不可能全身心地投入学术工作。我还要将最特别的感谢送给我一岁半的小公主: 她的存在, 让我无时无刻不感受到爱、幸福与责任。

对书中的错漏, 一如既往, 我愿承担所有责任。在本书的写作与修订过程中, 我虽尽全力, 然囿于能力与精力, 我深知, 不论是体例上, 还是内容上, 本书都难称完美。无奈之下, 只有借托马斯·伯恩哈德 (Thomas Bernhard) 的名言来聊以自慰。这位奥地利文学大师曾感慨道: “只有认识到完美根本不存在时, 我们方能获得存在的信念。”

霍政欣

于北京

2014 年 8 月 15 日

Preface to the Revised Edition of 2015

The first edition of this book was published in 2011. Reworking it revealed to me the truth of Ehrenzweig's observation that first editions should not be published. In addition to correcting mistakes and infelicities, I have attempted, as best as I could, to bring the text and footnotes up to date. This endeavor turned out to be Sisyphean, given the sheer bulk of an exponentially expanding legislation and case law. Nor have literature and framers of international conventions stood still since the publication of the first edition.

To mention but a few major developments: The Second Amendment to the PRC Civil Procedure Law was adopted on August 31, 2012 and came into force on January 1, 2013. On January 6, 2013, the Supreme People's Court of the PRC promulgated Interpretation (I) on the Conflicts Act. In addition, many courts in foreign jurisdictions, Hong Kong and California in particular, have changed their case law in subtle and less subtle ways, which have influenced, directly or indirectly, the development of Chinese private international law. Although none of the above has been revolutionary on its own, but together the developments have had a substantial impact: those changes are reflected through this edition.

The current edition of this book remains true to its original aspiration: to assist students, practitioners, and scholars alike in understanding both doctrinal and pragmatic aspects of Chinese private international law. It continues to do so through a deliberate effort to provide extensive discussion and references to authorities—on the premise that detailed answers provoke better, more challenging questions.

Three years have passed since the release of the first edition, and my efforts would not have been possible without the assistance of countless colleagues, students and friends. I cannot hope to acknowledge them all here and will not attempt to do so.

Finally, I must acknowledge the sacrifices of my parents and wife. Any scholar's commitment to a project of this sort comes always at a substantial cost to one's family. I just hope that the costs have been modest enough, and compensated (to some degree) with my attention, respect, and love. Special thanks also go to my little princess: though she did not always manage to keep quiet and behave herself during its writing, she, however, brings to me a heart of joy and a powerful sense of fatherhood which makes me strong and proud.

As always, I fully accept responsibility for the errors and omissions found in this book. Though I have done my best, I have never even imagined to publish a perfect book, for "only

when we come to realise that wholeness and perfection do not exist, will we ensure our own survival.”^①

HUO Zhengxin

Beijing, China

August 15, 2014

① Thomas Bernhard, *Alte Meister*.

2011 年版前言

法律之渊源纷繁多样。在理想世界中，这些渊源应有明确的定义与清晰的界限，所以，任何事件，不论发生于何地，只会受制于一位立法者或执法者。然而，我们所生活的现实世界并非如此：立法及执法权时有不清，或纵然清晰但相互重叠。故此，法律之冲突生焉。如何解决此类冲突，概言之，即为“国际私法”的中心议题。

如今，信息技术愈加发达，各国交往日益繁盛，世界随之变小。在此背景下，国际私法已获得前所未有的重要地位，已成为法律人不可或缺的工具；若以比较法为视角观之，情况尤胜。从这个意义上说，本教材的出版极具现实意义，它旨在以比较法为视角，对中国国际私法的理论与实践进行详尽的阐述。尤须指出，中华人民共和国的首部国际私法法规已于 2010 年 10 月 28 日颁布，并于 2011 年 4 月 1 日生效；中国国际私法因而经历了一场静悄悄的变革，如此，本书之出版更添及时性与必要性。

本书作为国际私法英文及双语教学的教材，对国际民事诉讼管辖权、法律选择、外国法院判决及仲裁裁决的承认与执行等事项作了详尽而深入的分析与介绍，并结合最新案例对中国国际私法的司法实践进行了评述。

本书第一编“导论”，分为三章，第一章交代国际私法的名称、范围、性质、存在理由等事项；其余两章则分别探讨了国际私法的渊源与本学科的一个重要概念——“冲突规范”。

第二编为“国际私法简史”，它回溯了本学科的历史发展进程，亦由三章构成，分别探讨了欧陆、英美与中国的国际私法发展与演进历程。本编之所以重要，在于当代国际私法的理论与实践深受其历史影响。

依据中国国际私法学理，自然人与法人被归类为国际私法的基本主体，而国家与国际组织为特殊主体。本书第三编“国际私法的主体”对这两类主体进行了系统介绍。该编第一章与第二章分别讨论了自然人与法人的国籍与住所问题，第三章则在探讨国家和国际组织在国际私法中的地位基础上，着重对国家及其财产豁免理论进行了深入研究，并对中国在该理论上的立场与实践作了系统梳理与评析。

由于管辖权通常是法院在审理涉外民事案件时处理的第一个法律问题，故本书在阐述法律选择问题之前，先设一编，即第四编，专门讨论“国际民事诉讼管辖权”问题。该编第一章对国际民事诉讼管辖权的基本理论与原则进行了介绍，第二章总结、分析了中国国际私法立法与司法实践中的管辖权问题，并提出相应的意见与建议。

第五编为“冲突法总论”，该编重点探讨了常与法律选择伴生的一系列问题，包括识别、反致、外国法的查明、法律规避以及公共秩序保留等。

第六编为“冲突规则”，旨在向读者阐释国际私法的核心部分——涉外民事关系的法律适用。本编以中国法（尤其是 2010 年颁布的《涉外民事法律关系适用法》）中包含的各类冲突规范为中心，深入考察了相关的立法与司法实践，并作出系统评论。该编主要

涵盖了民事能力、合同、侵权、物权、婚姻家庭以及继承等领域。如此安排,部分是考虑到它们在涉外交往中的实际重要性,部分是因为这些领域积累的素材与资料较多,便于展开深入探讨与研究。

第七编“外国法院判决与仲裁裁决的承认与执行”包括两章,第一章概述了关于承认与执行外国法院判决的基本理论,并对外国法院的判决在中国承认与执行的条件与程序进行了介绍与分析;第二章首先辨析了承认与执行外国仲裁裁决的区别,再结合《纽约公约》的适用讨论了在中国承认与执行外国仲裁裁决的问题。

作为全书的最后一编,第八编为“中华人民共和国新国际私法法规评析”,如题所示,它旨在对这部新法作出客观、综合的评价与分析。本编从中国国际私法的立法背景入手,进而对新法的各主要条款作出深入、具体的学理阐释与评析,最后对这部法规的历史意义、存在的瑕疵与完善的途径进行了总结性的阐述。需要提及的是,本书所论述的法律,以2011年3月31日为限,此后发生的法律变动或更新,待今后再版再行论述。

毫无疑问,本书的主旨极具国际性。职是之故,我决定用当今世界的通用语言——英语写作、出版之。由于语言是法律人最重要(甚至是唯一)的武器,语言质量遂成为我在撰写本书时最关注的事项之一。需要提及的是,本书涉及的相当一部分内容源自中文文献,这从其脚注的格式中可以窥见;除中文与英文文献外,本书还援引了少量其他语言的文献,这遂使本书为比较法研究提供了较为丰富的素材。

作为本书作者,我首先要向对外经贸大学出版社表以谢意与敬意。贸大出版社的编辑团队素以高水平闻名,与他们的合作始终让人舒心而惬意。王煜老师更是一位梦幻般的编辑,我无法想象还有谁比她更助人惠友。此外,中国政法大学国际法学院的硕士研究生朱寒超同学为本书的编辑校对付出了辛勤努力,并此致谢。

最后,我要感谢我的家人。多年来,父母与妻子对我和我所热爱的事业给予了无条件的理解与支持,作出了无私的奉献;没有他们的爱、鼓励与支持,我将一无所成。

还须交代,对于本书之撰写,我虽已尽力,然钻研未邃,谬误难免,恳请读者赐正。坦率地说,冲突法著述之撰写向来被视为高风险的工作,^①而用外语写作,风险弥高,甚至有毁誉之虞。所以,倘若一位耐心和宽容的读者在掩卷后觉得本书有助于增进其对中国国际私法的理解,则我心满意足矣。

霍政欣

2011年6月

于北京海淀寓所

^① 约180年前,路易斯安那州最高法院波特(Porter)法官曾感叹道:在法院与律师所关注的领域中,冲突法最为错综复杂,在这个学科中,几乎找不到两个观点完全一致的学者,也几乎难以发现一位观点保持前后一致的学者。就我们所知,法学理论中,再没有哪个领域如此纷乱;也没有哪个领域能像冲突法这般,教会人们怀疑自己,而对他人的观点宽以待之。Saul v. His Creditors, 5 Mart. (n.s.) 569, 589 (la. 1827).

Preface to the First Edition of 2011

Law comes from many sources. In an ideal world, the authority of these sources would be clearly defined and neatly demarcated, so that no event or occurrence was ever subject to control by more than one law maker or law enforcer. But such is not the world where we are living. The power to make or administer law is often unclear and, even when clear, frequently overlaps. Conflicts arise, and a way is needed to resolve them. This, broadly speaking, is the subject matter of “private international law.”

In a world which is shrinking by increased and improved means of communication and exchange, private international law, especially in a comparative perspective, has acquired extraordinary importance and become an indispensable tool for all lawyers. It is in this sense that this textbook fulfils its utilitarian purpose, as it explores both doctrinal and pragmatic aspects of Chinese private international law from the perspective of comparative law. Moreover, since the first Conflict of Laws Act of the PRC was passed on October 28, 2010 which shall be put into effect on April 1, 2011, Chinese private international law has witnessed a silent revolution; hence, there can be little doubt that the publication of this book is timely and necessary.

This textbook is designed for use in a typical three-credit course on private international law taught in English, which is devoted to providing detailed and in-depth analysis of the current conflict rules in China concerning jurisdiction, choice of law and recognition and enforcement of foreign judgments and awards in civil and commercial related disputes, and to carrying out updated case analysis which could discover the judicial practice in the Chinese People’s Courts.

Part I consists of three chapters which provides an introduction to the course without enmeshing students in details and complexities better provided in later parts. Chapter 1 is a general description of private international law where its name, scope, nature, definition and *raison d’être* are discussed. The remaining two chapters examine the sources of private international law and a vital concept of our subject—“Conflict Rules” respectively.

Part II explores the historical development which is composed of three chapters, *i.e.*, the European Continental History, the Anglo-American History, and the Chinese History. This part is important, insofar as modern private international law has been strongly influenced by its own history.

Part III turns to the “Subjects of Private International Law.” Under the Chinese scholarship, natural persons and legal persons are classified as “regular subjects,” while states and international organizations are classified as “exceptional subjects.” The first two chapters of this part lay out the nationality and domicile of natural persons and legal persons and the last chapter discusses the issues of states and international organizations as the subjects of private

international law. China's position and practice on the immunities of states and their property have also been thoroughly analyzed in chapter 3.

Part IV deals with "International Civil Jurisdiction." As jurisdiction is usually the first issue that a court has to deal with when a dispute is submitted before it, this part examines the jurisdiction of courts in international civil litigation prior to the discussion of choice of law issues. Chapter 1 provides a comprehensive exegesis of the basics of international civil jurisdiction. Chapter 2 summarizes and analyzes the current Chinese legislation and judicial practice on international civil jurisdiction; thereafter it provides comments and suggestions.

Part V spells out the "General Part of Conflicts Law," which examines a number of conceptual issues recurring in discussions of choice-of-law problems such as characterization, *renvoi*, proof of foreign law, evasion of law and *ordre public* reservation.

Entitled "Selected Areas of Conflict Rules," Part VI exposes students to the core set of issues needed to understand private international law. This part focuses on conflict rules that scatter through various Chinese laws, including new Conflict of Laws Act of 2010, whose balance will be devoted to a survey of selected areas of Chinese conflict rules, scrutinizing the relevant legislation as well as judicial practice and providing systematic comments. The conflict rules for capacity, contract, tort, family issues, succession and property are selected as the topics of discussion in this part. The highlighted areas are chosen partly for their importance in terms of their effect on the relationships between China and other states and between Chinese citizens and foreigners, and partly because of the lack of available materials other than these subjects.

Part VII is "Recognition and Enforcement of Foreign Judgments and Awards" which includes two chapters. Chapter 1 provides an overview of the recognition and enforcement of foreign judgments and addresses the recognition and enforcement of foreign judgments in China. Chapter 2 reviews, *inter alia*, the distinction between recognition and enforcement, the regime for recognition and enforcement of foreign awards in China and the application of the New York Convention in China.

Part VIII, the closing one of the book, is "The New Conflict of Laws Act of the People's Republic of China." As its heading suggests, this part attempts to make an objective and comprehensive assessment of the Conflicts Act by tracing its history, scrutinizing its most important provisions, and drawing a conclusion. It should be noted that I have attempted to state the law on March 31, 2011, although it has proved possible to take account of certain later developments when correcting proof.

Undoubtedly, the theme of this book is truly international. For this reason, I want it published in today's "*lingua franca*"—English. Since language is the most important—and even the only—weapon in lawyer's armory, the linguistic quality of this book was one of the utmost concerns to me. The readers should bear in mind that considerable parts of this book consist of the translation of original Chinese language works. This will become apparent in the

style and the types of footnotes, which also refer to literature written in neither Chinese nor English language. Thus the book represents a symbol for the experience of comparative law.

As the author of this book, I am immensely grateful to the University of International Business and Economics Press. Their teamwork is always outstanding, and it is a joy to work with them. I am especially indebted to Ms. WANG Yu who, in my eyes, is a dream editor: I do not think anyone could have been more supportive.

Last but not least, I want to acknowledge the understanding and sacrifice of my family. Without the enduring love, encouragement, and support of my loving parents and dearest wife, little would be possible.

As always, I fully accept responsibility for the errors and omissions found in this book. Despite my best efforts, I am sure some will be identified. Conflicts scholarship is always a risky undertaking,^① and a conflicts book written in a foreign language is perhaps even more fraught with reputational risk. I can only hope that a gentle and patient reader will find it a useful contribution to the understanding of Chinese private international law from the perspective of comparative law.

HUO Zhengxin

June, 2011

Beijing, China

^① As Judge Porter of the Louisiana Supreme Court lamented about 180 years ago, this is “a subject, the most intricate and perplexed of any that has occupied the attention of lawyers and courts: one on which scarcely any two writers are found to entirely agree, and one which it is rare to find one consistent with himself throughout.” *Saul v. His Creditors*, 5 Mart. (n.s.) 569, 589 (la. 1827).